

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5301 of 1989

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

GOVERNMENT OF GUJARAT

Appearance:

1. Special Civil Application No. 5301 of 1989
MR HARDIK C RAWAL for Petitioner No. 1
Mr. RC Kodekar, AGP for Respondent No. 1-3
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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 16/01/2004

ORAL JUDGEMENT

Heard learned advocate Mr. Raval for the petitioner and Mr. Kodekar, learned AGP for respondent

No. 1/2. Notice of rule has been served upon the respondent No. 3 but no appearance has been filed on behalf of respondent NO. 3. The union has not remained present personally before this Court. This being the matter of 1989, pending since more than 14 years, has been taken up for final hearing in absence of the respondent.

By way of this petition, the petitioner GSRTC has challenged the order dated 21st April, 1988 issued by the Government Labour Officer, Ahmedabad wherein the Corporation was directed to constitute the Joint Management Council as required under section 3(A) of the ID Act, 1947 in the ST Central Workshop at Saijpur Bogha, Naroda Road. The petitioner was also directed by the Government Labour Officer, Ahmedabad as per the said order to hold election of the Joint Management Council and to inform the office within seven days. Said letter of the Government Labour Officer was replied by the Corporation on 21st May, 1988 and the details have been given that in the Workshop, repairing work of the motor vehicles is not being carried out but such work is being carried out in the Divisional Workshop and not in the Central Workshop. The petitioner thereafter addressed another letter dated 7th July, 1988 addressed to the Chief Inspector of Factories and copy of the said letter was also given to the Government Labour Officer, Ahmedabad with details of the Budget for the year 1988-89 regarding change of classification of the Central Workshop, Naroda Road, relating to section 3, 3A of the ID Act, regarding repairing services of the motor vehicles and the motor cycle. Thereafter, the respondents no.1 and 2 have not applied their mind and no further details have been collected by the respondents no.1 and 2 from the Corporation. It is the duty of the respondents no.1 and 2 to see that after the reply is received by them from the Corporation, the reply given by the Corporation is examined by them and it is verified as to whether any repairing/service work is being taken in the Central Workshop or not by the Corporation but in the instant case, no such inquiry has been made by the said respondents. Therefore, since no such inquiry has been made and since no clarification has been made for the work carried out in the central workshop, according to my opinion, notice for constitution of the joint management council under section 3(A) of the ID Act, 1947 is not legal. It is incumbent upon the respondents no.1 and 2 to ascertain whether any repairing services are being carried out by the corporation in the central workshop or not and then, they have to issue such notice to the corporation for constituting the joint management council

under section 3(A) of the ID Act. In absence of any material, such direct notice is not legal and valid and, therefore, according to my opinion, the order dated 21st April, 1988 issued by the Government Labour Officer, Ahmedabad is required to be quashed and set aside while reserving liberty in favour of the said authority to take appropriate action after giving reasonable opportunity to the Corporation in case if they have any material from the Corporation or from any other source that in the Central Workshop of the Corporation, repairing service work is being carried out and they are covered by the Government Notification dated 25th February, 1988.

Accordingly, the order dated 21st April, 1988 issued by the Government Labour Officer, Ahmedabad is hereby quashed and set aside while reserving liberty in favour of the said authority to take appropriate action after giving reasonable opportunity to the Corporation in case if they have any material from the Corporation or from any other source that in the Central Workshop of the Corporation, repairing service work is being carried out and they are covered by the Government Notification dated 25th February, 1988. Rule is made absolute in terms indicated hereinabove with no order as to costs.

(H.K. Rathod, J.)

Vyas